
 IN THE UNITED STATES DISTRICT COURT

 FOR THE DISTRICT OF UTAH

MIKEL R. BROWN,

Plaintiff,

v.

REID NEWHEY, et al.,

Defendants.

**ORDER ADOPTING REPORT AND
RECOMMENDATION**

Case No. 1:21-cv-00154-JNP-CMR

Judge Jill N. Parrish

Magistrate Judge Cecilia M. Romero issued a Report and Recommendation that the court dismiss the plaintiff's action. Judge Romero notified the plaintiff that a failure to file a timely objection to her recommendation could waive any objections to it. No objection was filed within the allotted time.

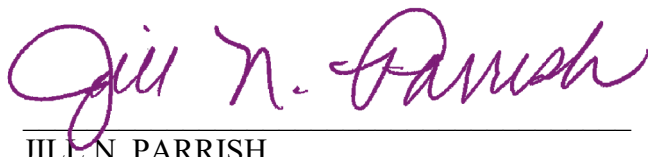
Because no party objected to the Report and Recommendation, any argument that it was in error has been waived. *See United States v. One Parcel of Real Prop.*, 73 F.3d 1057, 1060 (10th Cir. 1996). The court will decline to apply the waiver rule only if "the interests of justice so dictate." *Moore v. United States*, 950 F.2d 656, 659 (10th Cir. 1991). In determining whether the interests of justice require an exception to the waiver rule, the Tenth Circuit has "considered factors such as 'a *pro se* litigant's effort to comply, the force and plausibility of the explanation for his failure to comply, and the importance of the issues raised.'" *Duffield v. Jackson*, 545 F.3d 1234, 1238 (10th Cir. 2008). In this case, there is no indication that the interests of justice require it to deviate from the waiver rule. Thus, the court finds that the interests of justice do not warrant deviation from the waiver rule and ADOPTS IN FULL the Report and Recommendation.

Accordingly, the court ORDERS as follows:

1. The Report and Recommendation, ECF No. 68, is ADOPTED IN FULL.
2. The court DISMISSES plaintiff's first and ninth causes of action against the Davis School District without prejudice.
3. The court DISMISSES plaintiff's § 1983 claims under the third, fourth, and fifth causes of action as to defendants Reid Newey, Blake Haycock and John Robinson in their official capacities without prejudice.
4. The court DISMISSES Plaintiff's remaining § 1983 claims under the third, fourth, and fifth causes of action as to defendants Reid Newey, Blake Haycock and John Robinson in their individual capacities with prejudice because these defendants are entitled to qualified immunity.

DATED the 18th day of September, 2023.

BY THE COURT:



JILLE N. PARRISH
United States District Judge